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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,859	11/05/2003	Lee A. Chase	LAC03 P-330	7796
277	7590	09/08/2005	EXAMINER	
PRICE HENEVELD COOPER DEWITT & LITTON, LLP 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501			TSIDULKO, MARK	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.	Applicant(s)	
	10/701,859	CHASE, LEE A.	
	Examiner	Art Unit	
	Mark Tsidulko	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5,8 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8,12,13,15 and 17 is/are allowed.
- 6) ☒ Claim(s) 5,14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The submission of amendment filed on 7/7/2005 is acknowledged. At this point claims 8 and 16 have been amended, claims 1-4, 6, 7, 9-11 have been canceled and the remaining claims left unchanged. Thus, claims 5, 8, 12-17 are at issue in the instant application.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 5 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 25, 30 of U.S. Patent No. 6,502,974. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is disposed and covered in the Patent ('974) as shown in the table below.

<i>Claims of the instant application</i>	<i>Claims of the Patent (‘974)</i>	<i>D i f f e r e n c e s</i>
5	25, 30	<p>The scope of claim 5 of the instant application is incorporated in the patented claims 25 and 30. As shown in patented claims 25 and 30:</p> <ul style="list-style-type: none"> - a housing; - an intermediate wall made of flexible material (flexure member) coupled to the housing; - a cover lens coupled to the intermediate wall in spaced relationship to the housing; - intermediate wall is two-shot molded and includes polymeric material of a different rigidity in different areas.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Chase (US 6,631,068).

Art Unit: 2875

Chase disclose a headlamp assembly (Fig.5) including a lens [70], a housing [62] and a flexure member [90] having undulations [92] and [93] (Figs.12A, 12B).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Chase et al (US 6,502,974) in view of Tomforde (US 4,475,148).

Chase et al. in (col.6, lines 17-25) disclose increasing flexibility by adding slots extending partially thru the flexure member, but do not disclose a hollow tubes.

Tomforde shows (Fig.2) a flexible member [7] with hollow tube chambers [16].

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to substitute the hollow tube chambers of Tomforde for the disclosed slots in order to increase the flexibility of the flexure member.

Allowable Subject Matter

Claims 8, 12-15 and 17 are allowed.

The following is an examiner's statement of reasons for allowance:

Art Unit: 2875

Referring to Claim 8 the prior art of record fails to show the ribs having a constant cross-sectional shape and dimensions transverse to the longitudinal direction between the lens and the housing.

Referring to Claim 12 the prior art of record fails to show the flexure member including intersecting surface and a performed buldge at the intersection of the intersecting surface.

Referring to Claim 13 the prior art of record fails to show a lens having a guide track for engaging the guide of the housing for controlling the direction of deflection of the flexure member during an impact.

Referring to Claim 15 the prior art of record fails to show a flexure member having a sinusoidal cross section.

Referring to Claim 17 the prior art of record fails to show a housing having an interactive elements guiding movement of the lens relative to the housing during an impact.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed on 7/07/2005 have been fully considered but they are not persuasive.

Regarding claim 14 Applicant argues that reference Patent ('068) issued less than one year before the November 5, 2002 priority date, which is date of Provisional application 60/423,2002.

In response, this date cannot be used as priority date, because *undulations* claimed in claim 14 is a new subject matter, which was not described in the Provisional application 60/423,817.

Regarding claim 16 Applicant argues that Patent ('148) can not be used as a reference for rejection of claim 16, because the purpose of the hollow chambers [16] of elastic member [7] is not disclose and a member [7] of the Patent ('148) is used in a component different from a flexure member disposed between housing and the lens.

In response, the Examiner would like to direct Applicant's attention to the fact that, since the elastic member [7] is not disposed between the lens and the housing of the headlight, but between the lens and a hood of the vehicle, which is a housing too, it implements absolutely same function, which is to *provide protection for vehicle headlight from an impact load*.

Also, as well known in Patent practice, in some situations, motivations of using details or technology do not need special explanation, because is well known in the art or by those skilled in the engineering. The Examiner does not *speculate* that one having ordinary skill in the art might be motivated to utilize the hollow tube chamber to increase the flexibility of the flexure member, but has high enough education and engineering skills to motivate the using of structure of the reference, based on the own experience and knowledge: to increase the flexible characteristics of the flexible member.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.T.
August 25, 2005



JOHN ANTHONY WARD
PRIMARY EXAMINER